



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

T B

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/458,077	12/10/1999	NARIAKI SHIMOE	2038-230	8402

7590 01/15/2003

LOWE HAUPTMAN GOPSTEIN
GILMAN & BERNER LLP
1700 DIAGONAL ROAD
SUITE 310
ALEXANDRIA, VA 22314

EXAMINER

KIDWELL, MICHELE M

ART UNIT

PAPER NUMBER

3761

DATE MAILED: 01/15/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.	09/458,077	Applicant(s)	SHIMOE ET AL.
Examiner	Michele Kidwell	Art Unit	3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 14 June 2002.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 6-21 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 6-21 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) 12.

4) Interview Summary (PTO-413) Paper No(s) _____.
5) Notice of Informal Patent Application (PTO-152)

6) Other: _____

DETAILED ACTION

Response to Arguments

Applicant's arguments with respect to claims 6 – 23 have been considered but are moot in view of the new ground(s) of rejection.

Specification

The substitute specification filed June 14, 2002 has been entered. The examiner notes that the substitute specification includes originally filed claims 1 – 5 that have previously been cancelled. The examiner presumes that the submission of these claims was inadvertent. For examination purposes, the examiner will treat claims 1 – 5 as cancelled claims and remove the submission from the file.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 21 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 21 recites the limitation "the respective intended region" in 2. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 6 – 7, 9, 12 and 22 – 23 are rejected under 35 U.S.C. 102(e) as being anticipated by Congleton et al. (US 5,817,271).

With respect to claim 6, Congleton et al. (hereinafter “Congleton”) discloses an absorbent article comprising a liquid-permeable topsheet (col. 14, line 66 to col. 15, line 53) and a liquid-absorbent core (col. 17, lines 17 – 65) having an upper surface covered by the topsheet and a lower surface (col. 3, lines 4 – 7), said core further having indented regions arranged along two lines extending longitudinally along transversely opposite sides of the core, the lines spaced apart from each other by a distance gradually increasing from a minimum at a longitudinally middle point thereof to a maximum at longitudinally opposite ends thereof, the indented regions longitudinally

dividing the core into a central region confined between the indented regions and two side regions each located between one of the indented regions and the respective one of the transversely opposite sides of the core (figure 3C) wherein the core contains a fibrous component (col. 17, lines 17 – 26) and a density of the fibrous component in the indented regions is lower than in the central and side regions as set forth in col. 1, line 65 to col. 2, line 24 and col. 11, lines 52 – 60.

As to claim 7, Congleton discloses an article wherein the indented regions extend continuously along the lines as set forth in figure 3C.

Regarding claim 8, Congleton discloses an article wherein the indented regions intermittently extend along the lines as set forth in figure 1A.

Regarding claim 9, Congleton discloses an article wherein a rigidity of the core in the indented regions is not higher than in the central and side regions as set forth in col. 1, line 65 to col. 2, line 67.

With reference to claim 22, see col. 1, line 65 to col. 2, line 67

As to claim 23, see col. 14, lines 11 – 15.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 10 – 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Congleton et al. (US 5,817,271).

The difference between Congleton and claim 10 is the provision that the core further contain superabsorptive polymer particles distributed substantially only in the central region.

It would have been obvious to one of ordinary skill in the art to modify the core of Congleton to provide superabsorptive polymer particles distributed substantially only in the central region because it is well known in the art that the distribution of these superabsorptive polymer particles substantially only in the central region will greatly improve fluid handling capability, thereby preventing side leakage.

With respect to claim 11, the applicant has failed to provide any unexpected results associated with the claimed limitations. Congleton discloses an absorbent article wherein the core comprises a plurality of indentations (figures 1A and 2A). While Congleton does not explicitly state that the plurality of indentations is applicable to each line formed in the article, one of ordinary skill in the art at the time the invention was made would have been motivated to apply the plurality of indentations to each line, since it has been held that mere duplication of the essential working parts of a device (i.e., the indentations) involves only routine skill in the art.

As to claims 12 – 13, see figure 2A.

Regarding claims 14 – 15, see figures 3A – 3D.

As to claim 16, see figure 3C.

With reference to claim 17, it would have been obvious to one of ordinary skill in the art to experiment with the indented regions of Congleton in order to comprise the desired product based on the intended use and objective since it has been held that where the general conditions of a claim are disclosed in the prior art (i.e. an absorbent article having a core containing a fibrous component with a density of the fibrous component in an indented region being lower than the density in central and side regions), discovering the optimum configuration would only require routine skill in the art.

With reference to claims 18 and 19, see col. 15, lines 2 – 53. Congleton discloses many suitable apertured topsheets wherein the plurality of indented portions in the topsheet provided by the apertures would meet the limitations of the claimed invention.

With respect to claim 20, see figure 3C.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michele Kidwell whose telephone number is 703-305-2941. The examiner can normally be reached on Monday - Friday, 7:30am - 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Weilun Lo can be reached on 703-308-1957. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3590 for regular communications and 703-305-3590 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0858.

Michele Kidwell
Michele Kidwell
January 13, 2003

Weilun Lo
WEILUN LO
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700